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8 Attorneys for Defendants A.G. Spanos  
9 Construction, Inc.; A.G. Spanos  
Development, Inc.; A.G. Spanos  
10 Land Company, Inc.; A.G. Spanos  
Management, Inc., and The Spanos Corporation  
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12 IN THE UNITED STATES DISTRICT COURT  
13 FOR THE NORTHERN DISTRICT OF CALIFORNIA

14 National Fair Housing Alliance, Inc., et al.,	)	CASE NO. C07-03255-SBA
	)	
15 Plaintiffs,	)	AMENDED NOTICE OF MOTION
	)	AND MOTION OF DEFENDANTS A.G.
16 vs.	)	SPANOS CONSTRUCTION, INC., A.G.
	)	SPANOS DEVELOPMENT, INC., A.G.
17 A.G. Spanos Construction, Inc., et al.	)	SPANOS LAND COMPANY, INC.,
	)	A.G. SPANOS MANAGEMENT, INC.
18 Defendants.	)	AND THE SPANOS CORPORATION
	)	TO DISMISS PLAINTIFFS' FIRST
	)	AMENDED COMPLAINT

19  
20 [Fed. R. Civ. P. 12(b)(6)]

21 Hearing Date: March 11, 2008  
22 Time: 1:00 p.m.  
Dept: Courtroom 3

23 Complaint Filed: June 20, 2007  
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25 **TO PLAINTIFFS AND THEIR ATTORNEY OF RECORD:**

26 **PLEASE TAKE NOTICE** that on March 11, 2008, at 1:00 p.m., or as soon thereafter  
27 as this matter may be heard, in Courtroom 3 of the above-entitled court, located at 1301 Clay  
28 Street, 3<sup>rd</sup> Floor, Oakland, California, Defendants A.G. Spanos Construction, Inc., A.G.

Spanos Development, Inc., A.G. Spanos Land Company, Inc., A.G. Spanos Management, Inc., and The Spanos Corporation ("Defendants") will and hereby do move this court, pursuant to rule 12(b)(6) of the Federal Rules of Civil Procedure, for an order dismissing the claims of Plaintiffs National Fair Housing Alliance, Inc., Fair Housing of Marin, Inc. Fair Housing Napa Valley, Inc., Metro Fair Housing Services, Inc., Fair Housing Continuum, Inc. ("Plaintiffs").

The basis of this Motion, as set forth more fully in the Memorandum of Points and Authorities, filed on December 21, 2007, is that: (1) Plaintiffs' claim for relief under the Fair Housing Amendments Act, 42 U.S.C. §§ 3601, et. seq. ("FHAA") is barred by the statute of limitations as to all but eight of the eighty-five properties identified in the First Amended Complaint; (2) Plaintiffs have failed to allege facts sufficient to state a cause of action because they are not "aggrieved persons" within the meaning of the FHAA, they do not claim to belong to the protected class or to sue on behalf of members of the protected class, their damages, as alleged, were voluntarily incurred, and they have failed to name necessary and/or indispensable parties; (3) Plaintiffs fail to allege that the Spanos Defendants actually denied, or could deny, a rental to any member of the protected class; and (4) the First Amended Complaint fails to allege facts sufficient to establish plaintiffs' standing to sue.

This Motion will be based upon this Amended Notice of Motion and Motion, the Memorandum of Points and Authorities in support of this Motion, the Request for Judicial Notice filed in support of this Motion, and the pleadings, orders, records and documents on file in this case, as well as such oral and documentary evidence as may be properly presented at the hearing on this Motion.

Opposition, if any, to the granting of the motion must be served and filed not less than twenty-one (21) days before the hearing date. If the party against whom the motion is directed

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1 does not oppose the motion, that party must file with the Court a Statement of Nonopposition  
2 within the time for filing and serving any opposition. (See L.R. 7-3(a) and 7-3(b).)

3 Dated: January 7, 2008

FREEMAN, D'AIUTO, PIERCE, GUREV,  
KEELING & WOLF

4  
5 By



THOMAS H. KEELING

6 Attorneys for Defendants A.G. Spanos  
7 Construction, Inc.; A.G. Spanos Development,  
8 Inc.; A.G. Spanos Land Company, Inc.; A.G.  
Spanos Management, Inc., and The Spanos  
9 Corporation  
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